

FINAL REPORT

**WEST O'AHU OCEAN
OPERATIONAL PROTOCOLS**

A Project of the
Department of
Land and Natural Resources
Division of Boating and Ocean Recreation

Prepared by:
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WEST O'AHU OCEAN OPERATIONAL PROTOCOLS

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1 PURPOSE

1.1 Why This Study?

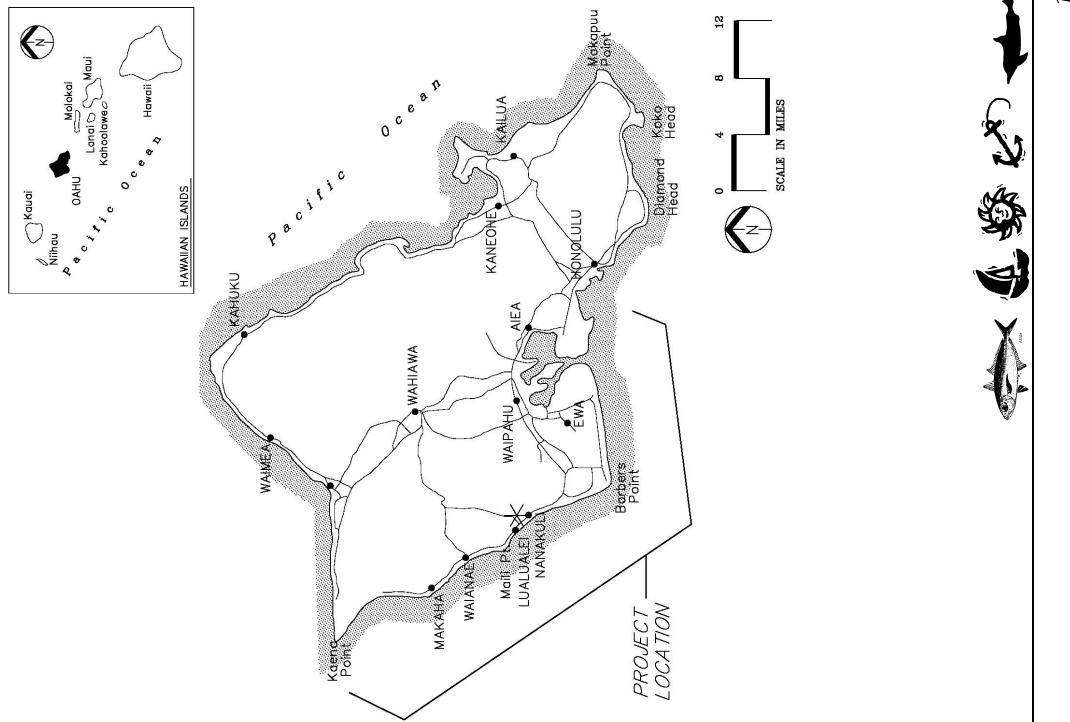
An increase in ocean activity and population on the west shore of O'ahu has led to a surge of user conflicts. This summary document identifies community and user group issues, operational protocols, and potential agreements. Issues include:

- Ocean user conflicts are regularly occurring.
- Community issues need to be documented.
- Existing agreements are outdated and/or not working.
- Sustainability of ocean resources is in question.

Regional waters from the Honolulu Airport to Ka'ena Point are without an Ocean Recreation Management Area (ORMA). In many other areas, ORMAs manage ocean water uses and reduce conflicts by creating "zones" for users. These zones are especially helpful in areas of high activity like Waikiki and Ka'anapali.

Act 6 of the 2005 Special Session, relating to the Wai'anae Coast, calls for the Department of Land and Natural Resources (DLNR) to "prepare a baseline environmental study as an informational document to be used for the preparation of draft ocean recreation management area rules." The law stipulated that the completion

FIGURE 1. Project Area.



of a baseline environmental study is a prerequisite to the establishment of the boundaries of an Ocean Recreation Management Area (ORMA) for the Wai'anae Coast.

Although the "baseline environmental study" was an unfunded mandate from the Legislature, DLNR has taken steps towards resolving the ocean recreation conflicts on the Wai'anae Coast. This project is a step in planning and managing West O'ahu ocean resources.

1.2 Project Details

This study was a project of the Department of Land and Natural Resources (DLNR), Division of Boating and Ocean Recreation (DOBOR). The planning work began in August 2005. The work was accomplished in coordination with DLNR officials, ocean user groups (fishermen, commercial operators, other interest groups), and many other interested citizens. The process included interviews, small group meetings with ocean users, and a general public informational meeting. The study area extended from the Airport Reef Runway to Ka'ena Point.

The objective was to document user conflicts, record community experience, and finally identify potential ocean operational protocols. This study will make recommendations and identify potential solutions, in the absence of rule making, that could help

FIGURE 2. User conflicts should be avoided.



manage ocean activities, work towards protection and preservation of natural and cultural resources, and minimize and/or avoid user conflicts

Project elements included:

1. Review and research – Develop a general description of the area's characteristics.
2. Collaborate with government agencies – Understand past, present, and future ocean use concerns.



3. Community Outreach – Identify and meet various ocean user groups through stakeholder interviews, small user groups meetings, and one (1) public meeting.
4. Develop "West O'ahu Ocean Operational Protocols" Paper – Document user conflicts and community experiences. Make recommendations and identify potential solutions, in the absence of formal "Ocean Recreation Management" (ORMA) rules.



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2 RECOMMENDATIONS

Due to the immediacy of ocean user conflicts, this process sought near-term solutions. Recommendations include:

- Reconvene the Task Force and revise the "Gentlemen's Agreement."
- Improve and expand enforcement.
- Use education to affect behavior.
- Implement environmental monitoring studies.
- Improve intra-agency coordination.

2.1 Update and Expand Gentlemen's Agreement

As a whole, the original Gentlemen's Agreement only addressed user conflicts between akule fishermen and dolphin tour boats. There are now new tour operators that need education on the

Agreement and on fishermen's needs. Secondly, compliance and enforcement of the original Agreement have not always occurred. With no penalty for breaking the Agreement, many tour boat operators stray from the rules, especially when it appears "no one is watching." Expansion and revision of the Agreement is also needed to address different types of users: other types of fishermen, surfers, etc. Finally, participation by ocean users in the

Agreement revision process, especially commercial users, needs to

be mandated. The Agreement also needs to be clearly posted and known by all.

2.1.1 Reconvene Task Force

Bring in all of the tour boat operators and all of the fishermen. Take a fresh look at problems and issues and what needs to be done. Work out new agreements as needed to protect ocean resources and provide for public safety. A project "champion" is needed to organize and chair meetings.

2.1.2 Require all users to participate in the new process

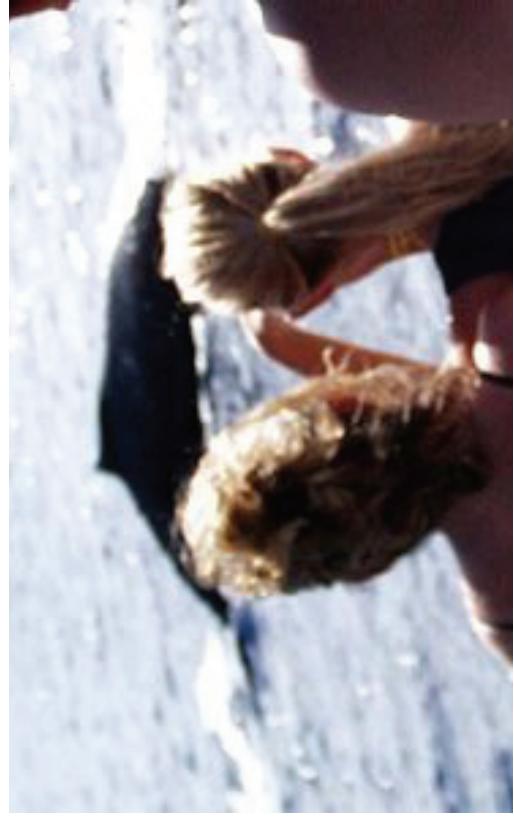
The community suggested that DLNR require ALL operators to participate in an update of the Gentlemen's Agreement as a condition of their permit.

2.1.3 Community enforcement of Gentlemen's Agreement

There are new users and conditions since the 2000 Agreement. Other stakeholders asked if there was a way to set "community" penalties if the Agreement is not followed. The new Agreement should articulate agreed-upon "penalties" that the community can enforce.



FIGURE 3. Visitors watch marine mammals.



- Operators and researchers must be sensitive while traveling along the coast and work closely with fishing vessels
This element needs clarification to define "sensitive" as it has different meanings to different users. Should a certain speed or distance be agreed upon?
- Normal transit should be offshore along the 40 fathoms depth contour but no less than 25 fathoms, depending on sea conditions
This element also requires expansion and clarification to address operator transit between 25 and 40 fathoms. What does "depending on sea conditions" mean? If it is high surf then what behavior is/is not appropriate?
- Enter into areas at right angles from offshore to inshore
This element is good; however, users need to abide by this rule even when other boats are not present.
- Work closely on radio channels 78a/68 so no conflicts
This element is useful and regularly practiced.
- Work closely with other marine mammal watching vessels primarily on channel 78a
This element is useful and regularly practiced.
- Pass location of dolphin pods to other interested parties
This element is agreed upon.

2.1.4 Update the original Gentlemen's Agreement

- Basic guidelines of the existing Agreement are listed below. Each Agreement element is followed with comments regarding needed clarification, expansion, or revision.
- Applies while in areas 402 (Barber's Point to Mā'ili Point) and 403 (Mā'ili Point to Kā'ena Point)
Ocean users concurred that this is the area covered by the Agreement.



- Approach and observe dolphin areas smoothly, quietly, and slowly

This element is agreed upon; however; enforcement is an NOAA (National Oceanic and Atmospheric Administration) issue and may be affected by their rules.

- Be conscious and watch for swimmers and divers while traveling en route and at site

This element is agreed upon.

- Work closely with dive vessels

Agreed.

- Log activity, amount, direction of travel, type of animal, daily in logs

Agreed.

- Pass information along to University of Hawai'i personnel

Agreed.

- Communicate with fishermen

Agreed.

- Don't pass inside of operating fishing vessels

Expansion of this element is required. Different fishermen use various areas. While passing outside of an akule boat is preferred, that is not the same for an opelu fishing boat. More information is needed to articulate where and how boats should traverse depending on the fishing activity.

2.1.5 Formalize Mākaha Buoys/Moorings Agreement

This agreement was forged with the water safety officers, the dive community and the fishing community some years ago. Representatives from all three groups went out on one of the glass bottom dive boats (Rainbow Divers) along the coast to agree on placement of each of the moorings. This original agreement regarding location of moorings and rings should be publicized to new users and followed.

New rules could also be set so at certain wave heights no boats are allowed inside Mākaha Bay. An example is to use "high surf advisory" warnings as indicator of when it is not safe to take tours into Mākaha Bay. Standards should be set based on local knowledge.

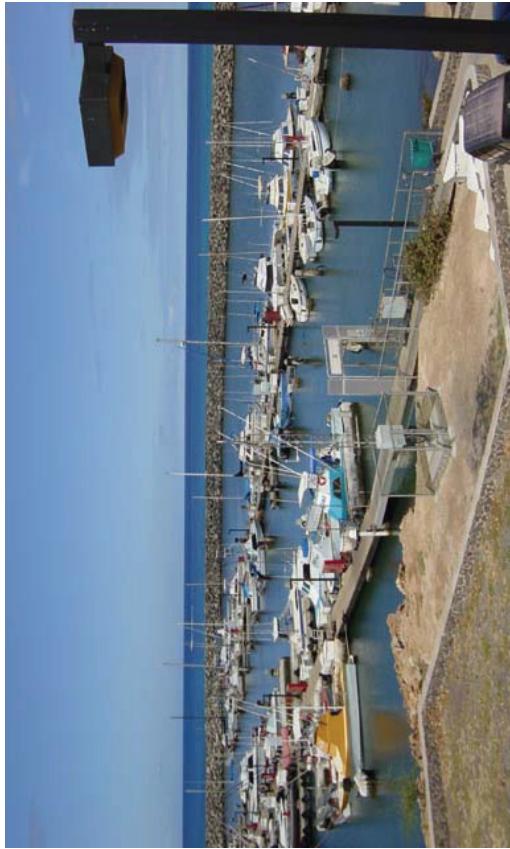
2.2 Improve and Expand Enforcement

Most ocean users expressed a great deal of frustration with the apparent absence of enforcement. Several ocean users related numerous calls to DOCARE (DLNR-Division of Conservation and Resources Enforcement) with no response. One ocean user in particular called DOCARE to report infractions three days in a row. Each day they were told there was no available officer. Many in the community said that getting some enforcement of existing rules and regulations would be a first step. Enforcement of rules would send a message and make a statement about the value of natural resources. The community also briefly discussed the



possibility of deputizing public representatives to help enforce existing rules and Agreements. Many agreed that enforcement of existing rules has to hit violators in the “wallet.” The DLNR “Makai Watch” program may assist in enforcement efforts.

FIGURE 4. Wai’anae Small Boat Harbor.



Community members suggested using signage, training, or even certifications to publicize appropriate behavior. Posting language of the “Gentlemen’s Agreement” on plaques and displaying them at the harbor in highly visible areas may be helpful. How can we teach others about how the ocean works?

Suggestions for education also related to possible training requirements for commercial operators and fishermen. Tour boat operators and captains could be required to go through a hands-on, practical course of study so that they develop an understanding of ocean resources, processes, dangers, protocols, and the history and culture of the Wai’anae coast. They could be required to attain a certain level of ocean knowledge before they receive a permit and/or license. Further, they could be required to take refresher/update classes from time to time. The course of study could be designed by kupuna/ocean practitioners. Community members felt that the Coast Guard Auxiliary used to do a good job of teaching ocean protocols. New courses could be conducted at nominal cost – perhaps as part of the Leeward Community College/Wai’anae Campus curriculum. The “Makai Watch” program may also help with community outreach and education.

2.3 Use Education to Affect Behavior

Many participants agreed that more public education for all sectors is needed. Education promotes public awareness and voluntary compliance with sustainable resource use restrictions.



2.4 Baseline/Monitoring Studies

FIGURE 5. Mākaha Surfing Beach.



Various types of ocean users agreed on one point: an environmental “baseline study” and assessment of impacts is needed. The community plans to work with the Legislature to fund this study in 2006. They also would like to begin setting the scope of the study. Stakeholders discussed the purpose and utility of doing the study and also raised additional issues and questions. Issues included:

- When is the baseline study going to start from?
- The study should project future users as well as current users.
- Scientists’ data can validate users’ experiences.
- The study needs to be comprehensive – not just based on one resource or user group.
- How can we determine who has priority on the ocean without this study?

The community hopes to gain a better understanding of the impacts of past/present/future ocean users and possible rules on ocean resources.

2.5 Improve Intra-Agency Coordination

Overall, these issues will benefit from increased coordination among DLNR Divisions. Collectively, the Division of Aquatic Resources (DAR), the Division of Boating and Ocean Recreation (DOBOR), and the Division of Conservation and Resources Enforcement (DOCARE) manage ocean resources. As a result, marine resources, harbors and boaters, and enforcement are each managed separately with Divisions often unaware of issues that



may overlap. Without proper participation and communication, management is disconnected and resolutions of issues take time. Increased and regular communication among these agencies would help to address issues that overlap Divisions' responsibilities. A majority of community members expressed frustration with DLNR Divisions and suggested regular intra-departmental meetings to discuss West O'ahu issues.

2.6 Other Issues

Many stakeholders felt that conflicts and issues can be worked out within existing regulations. Others noted the need for interpretation of existing rules to manage activities more efficiently.

Many stakeholders suggested that DLNR should stipulate more conditions in existing use permits. However the feasibility and enforceability of this is uncertain.

- Should various types of fishermen fly a flag when fishing?
- Should DLNR manage activities from all harbors, both public and private?
- Should there be any additional certification requirements for West O'ahu operators?
- Should permits set conditions for users, including travel speeds, routes, use times, proximity to boats, behavior, etc.?



3 BACKGROUND

User conflicts have occurred in West O'ahu waters for many years. The first marine mammal watching tour operation began in the early 1990s. In 2000, community stakeholders and the DLNR began to get involved in resolving ocean user issues through meetings and a task force. Since 2000, recreational ocean use and

the number of commercial operations have increased. Community concerns of and for fishermen have remained unresolved as user conflicts continue to occur.

3.1 House Concurrent Resolution: Year 2000

In 2000, the Legislature passed a resolution calling for the "study of the impact that commercial marine mammal watching tours may have on commercial fishing in waters off the Wai'anae Coast of O'ahu." Original task force members included the following participants:

- Carl Jellings, Commercial Fisherman
- Kamaki Kanahale, Nānākuli Hawaiian Homestead Association President
- Kevin Shore, Ko 'Olina Marina
- Dr. Paul Nachtigall, Hawai'i Institute of Marine Biology
- Victor Lozano, Commercial Marine Mammal Watching Tour Industry
- William Aila, Community Member
- Senator Colleen Hanabusa
- Representative Michael Kahikina, Chairperson
- Representative Emily Auwae.

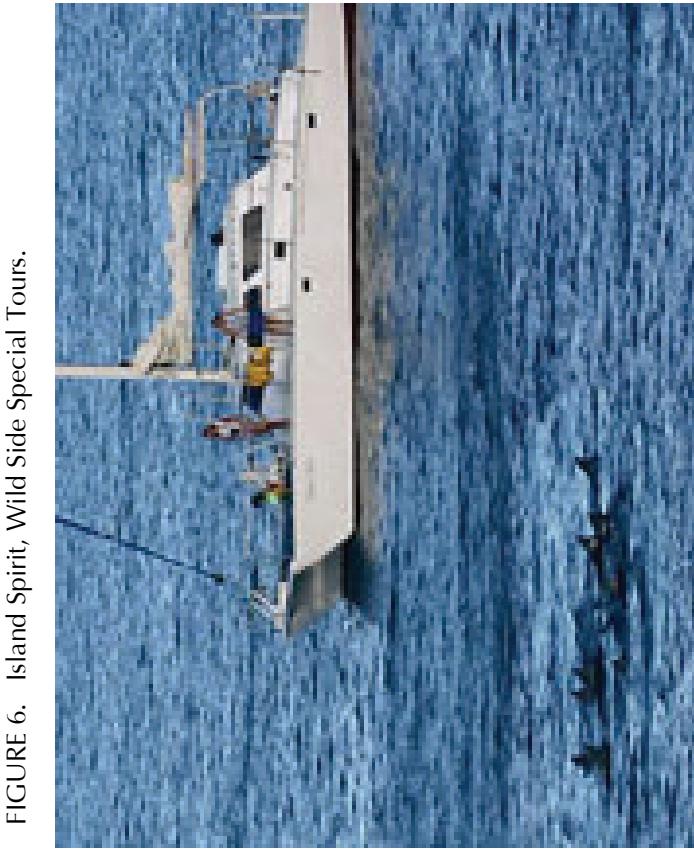


FIGURE 6. Island Spirit, Wild Side Special Tours.



Various DLNR agency staff also participated in meetings. The task force met four times through November and December of 2000. Minutes from the meetings are located in Appendix C.

3.2 Gentlemen's Agreement: Year 2000

The Task Force presented a report at the 2001 Legislative Session that included a "Gentlemen's Agreement" to mitigate ocean use conflicts between akule fishermen and marine mammal tour operators. As a result of the 2000-2001 process, the community expressed the desire to deal "internally" with conflicts and avoid increased State regulations.

The report also noted the need for a permanent group to deal with ongoing ocean user conflicts in West O'ahu waters. Such a continuing task force, named the "Leeward Coastal Advisory 'Ohana," would include three representatives of the fishing industry, three representatives of the commercial marine mammal tour industry, a representative of Hawaiian culture, and continued resources and staff involvement from DLNR agencies and the University of Hawai'i. Commercial operators and fishermen agreed to the terms of the Gentlemen's Agreement.

Since then, an increase in the numbers and diversity of ocean users have continued to cause conflicts. Many in the community feel that, while elements of the agreement still work, updates are needed.



FIGURE 7. Waianae Small Boat Harbor.

3.3 Act No. 6

In July of 2005, the Legislature passed Act No. 6. This Act directed that West O'ahu waters be designated as an Ocean Recreation Management Area (ORMA). An ORMA and its accompanying administrative rules would limit the locations, times, and types of permitted ocean recreation activities. However, according to the Act, "*the completion of a baseline environmental study is a prerequisite to the establishment of the boundaries of ocean recreation management area.*" The baseline study would include:



- Impacts of ocean use activities in the area;
- Mitigation measures to avoid, minimize, rectify, or reduce impacts and user conflicts;
- Unresolved issues;
- Statement of purpose and need for ORMA designation;
- Review of cultural, environmental, social, and economic impacts;
- Proposed limitations on ocean use activities, zones, permits, seasons, times, and other restrictions;
- Procedure for conflict resolution between ocean users;
- Rigorous exploration and objective evaluation of the impacts of alternative actions (ORMA, no action, other);
- Compatibility with land use plans and policies;
- A community consultation process including recordation of all substantive comments and responses.

The Act also placed a moratorium on the issuance of new commercial vessel permits in the State small boat harbors involving ocean-related activities for waters between Kalaeloa Point and Ka'ena Point until the boundaries of an ORMA and administrative rules are adopted.

Act 6 is an unfunded mandate which has prevented the Department from conducting the baseline study. The community plans to continue work with legislators to fund this effort in 2006. In the interim, DLNR wanted to begin public outreach and resolution of user conflict issues. As a result, in August 2005,

DLNR contracted for the development of this West O'ahu Ocean Operational Protocols Project.

FIGURE 8. Dolphin excursions.



Chuck's Photography Hawai'i.



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4 OCEAN USERS

This section describes the community consultation process, identifies ocean users, and summarizes issues expressed.

4.1 Community Consultation

The objective of community consultation was to gather information on values, issues, and experiences of various ocean users. Challenges of the process involved encouraging participation from a variety of ocean users and recording complex user conflicts and experiences. The participation process included many interviews and small user group meetings. A general public meeting was also held to discuss ocean user conflicts. A copy of the slideshow presented at the public meeting is located in Appendix A.

Topics of discussion at meetings included:

- Community values
- Past and present ocean resources
- User conflicts
- Potential agreements.

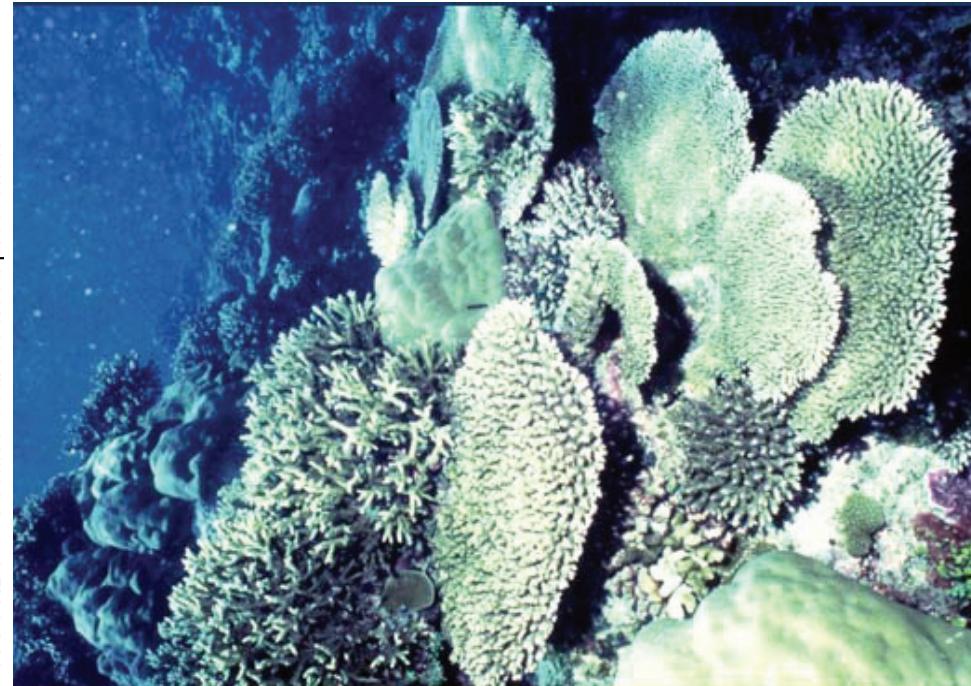


FIGURE 9. Ocean resources need protection.



4.1.1 Summary of Meetings

The planning process included meetings with DLNR agencies in addition to meetings with ocean users and the community. A summary of all meeting notes are located in Appendix B. Problems and issues that were expressed at meetings are discussed in more detail in Section 5: User Conflicts.

- August 18 Meeting: DLNR Agencies
- September 6 Project Announcement at Wai'anae Neighborhood Board Meeting
- September 15 Meeting: Commercial/Recreational Fishermen
- October 18 Site Visit: Wai'anae Boat Harbor, West O'ahu Ocean
- October 26 State Workshop: Ocean Resources Management Plan
- October 26 Meeting: Various Ocean Users
- November 1 Public Meeting Announcement at Wai'anae Neighborhood Board Meeting
- November 8 Meeting: Commercial Tour Operators
- November 9 Meeting: Surfers
- November 9 Site Visit: Mākaha Beach
- November 10 Wai'anae Neighborhood Board Parks and Recreation Committee
- November 22 General Public Meeting

FIGURE 10. Akule school.



John E. Randall, Shore Fishes of Hawaiiⁱ.

4.2 West O'ahu Ocean Users

Various ocean users were identified throughout this planning process. Efforts were made to consult with a variety of ocean users, including those who utilize the ocean for commercial, recreational, cultural, or subsistence purposes. Users include:

- 'Opelu fishermen
- Akule fishermen
- Shoreline fishermen
- Trollers
- Commercial operators (dolphin/whale watch)
- Surfers
- Kayakers
- Recreational jet ski
- Huki Tako



- Blue water divers
- Tropical fish collectors
- Canoe clubs
- Other community/recreational users.

The revised Agreement should include representatives of all users.

4.3 Where Do Users Come From?

The Wai'anae Small Boat Harbor is a State facility operated by DOBOR. Of the harbor's 146 berths, only 94 are occupied. The remaining 52 are out-of-service due to maintenance needs. Restoration and repairs are expected to occur in 2006-2007, which would make these areas available.

The Ko 'Olina Marina is a privately operated facility. The Marina currently has 267 full-service slips. Expansion of the facility with a second phase will add another 63 new slips. Thus, the future marina will accommodate as many as 330 berths. Ko 'Olina operators are not currently required to obtain a State permit, only vessels moored or landed at State facilities require such.

In addition to the two existing facilities, a private marina is planned at the Ocean Pointe development in 'Ewa. The Ocean Point Marina Master Plan depicts as many as 1,400 slips. This

facility would provide more access to the West O'ahu ocean. The Marina would nearly triple the number of slips available in the area from 'Ewa to Ka'ena Point and none would be required to obtain State permits!

FIGURE 11. Ko 'Olina Marina.



FIGURE 12. Ocean Pointe Master Plan.



According to DLNR, at least five commercial tour vessels offering dolphin encounters operate out of the Wai'anae Small Boat Harbor, and four vessels operate out of Ko 'Olina. Only operations within State harbors are conducted under permits from the DLNR's Division of Boating and Ocean Recreation.



5 EXISTING REGULATIONS

5.1 Fishing

Hawai'i Administrative Rules (HAR) Chapter 13-74 sets the conditions and fees for most fishing licenses and permits. Other rules regulate fishing gear types, fish catch sizes, seasons, and bag limits.

5.1.1 Permits

Individuals or vessels engaged in taking, selling, or offering for sale any marine life for commercial purposes (including charter fishing services) must obtain a Commercial Marine License. Fees vary and a catch report is required (Hawai'i Revised Statutes [HRS] §189-2 and 3). "Commercial purpose" is defined as the taking of marine life for profit or gain, or as a means of livelihood, when the marine life is taken in or outside of the state, or where the marine life is sold, offered for sale, landed, or transported for sale anywhere in the state.

Every commercial marine licensee is required to provide DLNR with a monthly report of marine life taken and bait used. Failure or refusal to submit a monthly catch report is cause for revocation of the commercial marine license. Violators are also subject to fines of \$250 to \$1,000 (HAR 13-74 and HRS 189-4). Specifically,

an Aquarium Permit is required for any person using fine mesh net for collecting aquatic life for an aquarium.

5.1.2 Catch Regulations

Specific regulations also exist for methods of catching akule (*Trachurops crumenophthalmus*) and halalū (juvenile akule) fish. It is unlawful to take akule under 8-1/2 inches by using nets, from July through October; or possess or sell more than 200 pounds of akule under 8-1/2 inches, per day, from July through October (HAR 13-95). It is also illegal for any person, without a valid commercial marine license, to take akule with any net that has less than 2-3/4-inch stretched mesh, except landing nets as indicated. It is also unlawful for any person without a valid commercial marine license to take akule using the bag-net fishing method. Specifically, it is against the law for any commercial marine licensee to take akule while using:

- lay net fishing method with net that has less than 2-3/4-inch stretched mesh;
- surround net fishing method with net that has less than 2-1/2-inch stretched mesh;



- bag-net fishing method with net that has less than 1-1/2-inch stretched mesh.
- It is also illegal for any commercial marine licensee to keep akule in a bag net in the ocean for more than three days without notifying the Department, explaining the reasons and when the bag net will be removed. Immediate removal may be required, if necessary, to prevent waste of akule or alleviate public safety risk. Use of landing nets of any mesh size is permitted, provided the opening of the landing net is less than four feet in any dimension, excluding handle.

5.1.3 Catch Reports: Fisheries Statistics

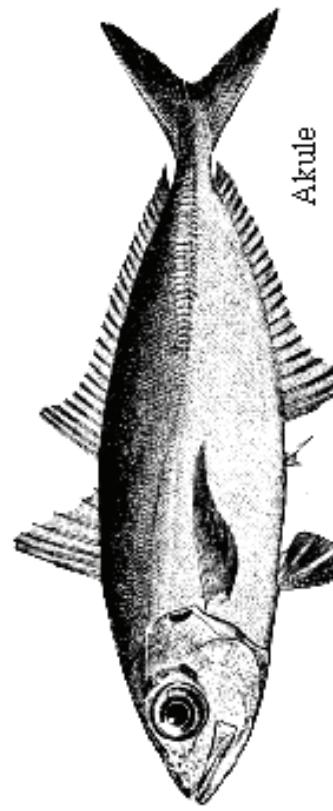
The Division of Aquatic Resources (DAR) collects various data for use in monitoring and assessing the aquatic resources of the state. It does this through catch reports from fishermen, marine life and habitat surveys (fish counts/transects, etc.), creel surveys, port surveys, and other surveys methods.

The largest and oldest dataset the DAR maintains is the commercial catch report database. These data have been collected, compiled, and archived continuously since at least the late 1940s. These data are used extensively by DAR and other authorized fisheries management agencies for monitoring fisheries and assessing the health of the resources. They are especially valuable because they are such a long time-series and thus provide

a good data set for analyzing trends. Fishery managers depend on the data to manage fisheries for long-term health. Fishermen who accurately fill-in their catch reports are truly partners in helping to make sure that we have fish for future generations.

The data that individual fishermen report on the commercial catch report are confidential and protected by State law (HRS Chapter §189-3) and can only be released to the public in summarized form. Summary data from catch reports are located in Appendix E. The summary includes data on Akule (*Trachurops crumenophthalmus*) and 'Opelu (*Decapterus pinnulatus* and *D. maruadsi*).

FIGURE 13. Akule (*Trachurops crumenophthalmus*).



Akule



5.2 Commercial Uses

A commercial use permit is needed when using any harbor facility, including boat launching ramps. Recreational users using State launch ramps are not required to have a permit, only to display a "launch fee decal."

5.2.1 Use Permits

The first permit type is for use of small boat harbors or boat launch ramps and associated facilities for commercial activities. According to State of Hawai'i Administrative Rules (HAR) (13-231-60, 61), commercial use permits require the following:

- DLNR Application
- Proof of vessel ownership and dimensions
- Proof of registration/documentation
- Coast Guard Certification on passenger capacity
- Operator: U.S. Coast Guard (USCG) Master's License
- State General Excise License
- Proof of insurance.

A special operator's permit is required from the State of Hawai'i in addition to USCG Master's License only for Waikiki and Ka'anapali (HAR 13-251-1).

5.2.2 Speed and "Rules of the Road"

Speed of commercial operators is limited to slow-no-wake within 200 feet of the shoreline, dock, landing ramp, congested beach, swimmers, diver's flag, anchored, moored, or drifting vessel, and to a reasonable rate elsewhere (HRS 13-244-2 and 13-244-9).

"Slow-no-wake" is defined as slow as possible without losing steering way and so as to make the least possible wake. This would almost always mean speeds of less than five miles per hour.

5.3 Recreational Uses

The other use permit type is for general recreational use of a small boat harbor and/or facilities (13-243-2). Examples of general recreational use are: mooring at a small boat harbor both regular and temporary; staying aboard (not to exceed 30 days at one harbor per permit) in a small boat harbor; use of a vessel as a vacation site while in a small boat harbor; use of a vessel as principal habitation while in a small boat harbor; or storing vessels or other items on land at a small boat harbor.

Currently, there is no recreational fishing license issued by DLNR. Thus, DLNR relies on volunteer reporting for recreational fishing data.



Local and national surveys have estimated the resident recreational fishing population at 115,000. With the support of NOAA, the DAR is currently surveying recreational fishers about their effort and catch. The Hawai‘i Marine Recreational Fishing Survey (HMRFS) should provide data useful in enhanced management of Hawai‘i’s recreational fisheries.

5.4 Enforcement of Regulations

Increased utilization of ocean resources has required greater involvement by Division of Conservation and Resources Enforcement (DOCARE). DOCARE is responsible for monitoring and enforcing compliance with DLNR regulations.

User conflicts caused by new and competing interests have resulted in increased demand for more conservation enforcement intervention. Current DOCARE staffing levels make it impossible to provide for adequate coverage on a 24-hour basis. Complaints sometimes go unanswered for 24 hours or even longer before an officer can respond to investigate the case. With limited manpower and decreased funding, DOCARE is primarily responding in a reactive manner. This makes it difficult to protect Hawai‘i’s unique natural resources and meet community expectations.

Other programs developed to increase compliance and enforcement include Mauka-Makai Watch, Experimental Ranger, and Volunteer Enforcement programs.

5.4.1 Mauka-Makai Watch

The Department of Land and Natural Resources, The Nature Conservancy, the Community Conservation Network, and the Hawai‘i Wildlife Fund are partnering in a new community program to help protect Hawai‘i’s natural and cultural resources.

The “Mauka-Makai Watch” is modeled after the nationally successful Neighborhood Watch Program in which community members act as the “eyes and ears” for law enforcement to help deter, identify, and report crimes. Community-supported natural and cultural resource protection and preservation programs represent a win-win opportunity and give citizens an opportunity to take more personal responsibility for protecting resources.

The Mauka-Makai Watch has three primary components:

1. Through education and outreach, community members learn and provide information to resource users about ecology, regulations, and best practices.
2. The DLNR’s DOCARE officers train community members in surveillance and accurate reporting to reduce the incidents of



willful disregard for laws and regulations governing resource use.

3. Conservation groups train community members in biological, human use, and threat monitoring so that they can interpret changes in the resources and how they are used over time.

A goal of the Mauka-Makai Watch is to help ensure better communication and interaction between community members and DLNR in education, regulation, monitoring, and observation to protect our natural and cultural resources.

Members of the Wai'anae community attended a Makai Watch training in the fall of 2005. With community support, a Makai Watch program could be developed on the Wai'anae Coast soon.

5.4.2 Experimental Ranger Program

DLNR has recently initiated an experimental Ranger Program. The Ranger Program helps the DLNR better manage recreational areas for the protection of the resources and the enjoyment and safety of residents and visitors. Rangers interact with guests to promote an understanding, awareness, and respect for the natural and cultural resources and the recreational opportunities through one-on-one discussions and interpretive talks. This guest interaction provides information on rules and regulations, health and safety concerns, resources, and the cultural and natural history of the area. While roaming the area to interact with visitors, the ranger also patrols

The first "Ranger" was stationed at the Ahihī-Kīnāu Natural Area Reserve on Maui. Subsequent Rangers are being placed on Kauai, Hawai'i Island, and Oahu. DLNR is currently evaluating



FIGURE 14. Fishing vessel at Wai'anae Boat Harbor.



establishing a ranger at Ka'ena Point. This ranger would monitor both the Ka'ena Point State Park as well as the Ka'ena Point Natural Area Reserve and thus provide added DLNR support on the Wai'anae Coast.

5.4.3 Volunteer Enforcement Officer Program

This program allows qualified individuals the opportunity to serve as volunteer enforcement officers. The Division of Conservation and Resources Enforcement (DOCARE) has a Volunteer Enforcement Officer Program. This program allows qualified individuals the opportunity to serve as volunteer enforcement officers and help protect the natural resources of Hawai'i. The program requires extensive training and education but allows those with the time and ability to make a difference in their community.



6 USER CONFLICTS

6.1 Community Issues

The following issues were expressed by West O'ahu ocean users through interviews, small group meetings, and a general public meeting:

1. NUMBERS: Too many boats and users for the resources.
2. SAFETY: The amount of ocean users creates dangerous situations.
3. NEGATIVE IMPACTS: Activities negatively impact ocean resources.
4. BEHAVIOR: User behavior-speeding, transit, locations, taking, harassment—is problematic.
5. ENFORCEMENT: Existing rules are not enforced.
6. ECONOMICS: Fishermen and tour operators are all trying to make a living.
7. SENSE OF PLACE: Numbers and behavior of activities affects sacred spaces.
8. VALUES: Values have changed; people do not have respect and are not taught to care for the ocean properly.
9. OTHER IMPACTS: What about other impacts, e.g., population, development, runoff, pollution, over fishing?
10. PRIORITY: "Wai'anae is the fishing side of the island. The fishermen come first."

FIGURE 15. Kuilioli Heiau, Kanelio Point.



FIGURE 16. Mauna Lahilahi.



Overall, stakeholders expressed a willingness to try to work together. Various ocean users are trying to enjoy themselves on the ocean and/or make a living. Several goals to strive for as mentioned by ocean users included:

- “We need to achieve a balance so we all can thrive and coexist.”
- “Let this process formulate a future for users to coexist for the next 50 years.”
- “We want to earn a decent sustainable living while also valuing our ocean resources.”

Many in the community recognize that they will have to accept a degree of commercial activity in order to improve the economy and respect the right to do business. However, most expressed a desire to achieve the right balance of commercial tours, fishing, and recreation.

A majority of residents also focused on the need for more information about users and their needs issues. The community attained overwhelming consensus regarding the need for an environmental baseline study to get more information and weigh impacts and alternative mitigation. However, due to the immediacy of concerns, this process asked participants to focus on near-term solutions: what can be done until a baseline study is completed?

Wai’anae has many areas with special cultural and historical importance that extend into the sea. The natural resources, cultural sites, and natural landscapes are very important to the community. The community expressed concern for the protection of sacred places. The numbers and behavior of boaters ruin the sense of place. Residents recognized that the dynamics of the West O’ahu region are quickly changing as population increases and development occurs. However, the diversity of values of ocean users is apparent in discussing ocean impacts, takings, and impacts on resources. Many ocean users felt that they had no

FIGURE 17. Spinner dolphins.



impact on resources at all; however, the cumulative impacts of uses are unknown.

Community members noted concern for marine mammals and the impacts of daily commercial interaction. Many felt that the amount and frequency of operators in the area disturb dolphins, especially during their resting periods. In one instance, DLNR attached conditions to an interim commercial permit based on recommendations by a DLNR aquatic biologist.

FIGURE 18. Ko Olina Kat.



During an assessment of Mākua, "motorized vessels, kayaks and snorkelers from shore were observed in the water, in areas where resting dolphin schools have previously been reported. As this area is one of the only large, relatively calm embayments along this side of the island, the scale of such unregulated and unmonitored activity raises concerns" (Gulko, Dave. Biologist DLNR. *Report On Commercial Activity at Makua Beach*, June 2004). On both days, the team witnessed small, high-speed motor boats operating close to shore, posing safety issues for people in the water as well as sea turtles, dolphins, and schools of akule.

Community members stated that ocean use "ethics" were passed down through generations. This included sustainable use of ocean resources and how to treat other users respectfully. Many felt that newcomers have no time to understand one another. A participant noted: "*people don't understand the way the ocean works anymore. We are losing the knowledge to pass to the next generation about how to conduct oneself in the ocean.*"

A lot of discussion focused on changing community values. As one long-time Wai'anae resident shared: "*All the rules have changed; now it (ocean use) is all about making money. It used to be, make a living, have fun, don't mess with friends and neighbors.*"



Many residents stressed that traditional "permission" is the key – not government permits. One resident said: "*If we don't do something, the government is going to step in and tell us what we can and cannot do.*" Some in the community expressed that overall government rules will be inflexible and it will be better for the community to self-regulate. Others feel that traditional or grassroots efforts to regulate do not work because newcomers have different value systems.

6.2 Fishing Issues

Akule and 'ōpelu fishermen expressed frustration over the impacts of increased commercial tour boat operations. Several fishermen shared repeated experiences of fish schools chased away by the increased activity. As a result, the numbers of active commercial fishermen have significantly declined in the past five years. For example, the community noted as many as 15 akule fishermen in the late 1990s. Now, there are estimated to be only 2 to 4 akule fishermen. Figure 19 illustrates a corresponding trend in catch reports.

Fishermen shared that there is inadequate government protection of ko'a/fishing grounds/estuaries. They feel that while rules are imposed on fishermen, minimal rules are set for other ocean users. Commercial operator behavior affects fish and the livelihood of

fishermen. Inappropriate transit corridors, speeding, and the sheer number of tour boats scare fish away.

Fishermen expressed the desire to continue their traditional work because fishing is part of their identity. Several fishermen also noted: "Somebody has to feed our people." They stated that the fisheries resources have suffered lots of damage. Fishing conditions have worsened from 2000 to the present. For example, a fisherman shared: "*‘Ōpelu never stayed at the buoys in the past. Usually after one week they move into the shore. Now they stay at the buoys for 4 to 5 months. Commercial impacts have altered their behavior.*"

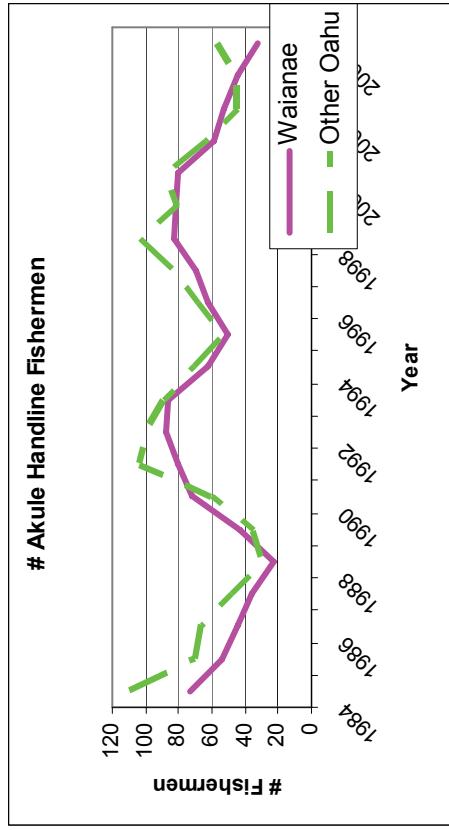
Development of new private harbors combined with ideal ocean conditions of the Wai'anae Coast mean the numbers of West O'ahu ocean users will continue to grow. As the numbers of ocean users increase, fishermen do not see any relief in sight. Without increased regulations for commercial tours, resources will continue to degrade.

An important point is that fishermen suffer impacts of commercial activity regardless of whether or not they are actively fishing. Terms of the existing Gentlemen's Agreement are generally followed when fishing boats are visible. However, boating behavior, at any time, can have long-term effect on fisheries. While communications between the akule fishermen and the tour



boat operators are actually good, the problem occurs in the morning, when the tour boats head out from the harbor and disrupt the natural movement of the akule schools.

FIGURE 19. Akule fishing data.



Data source: DLNR, Division of Aquatic Resources.

6.3 Surfing Issues

During the winter, surf at Mākaha Beach can create dangerous conditions. Wave heights often average fifteen feet and can peak as high as thirty feet. The high surf can make the area unsafe for novice surfers, body boarders, and swimmers. Strong back washes are created and the shorebreak and resultant undertow become

very dangerous. During high surf time, more surfers occupy the water.

Veteran surfers and ocean safety officials have concern with commercial tour operators at Mākaha Beach. Tour operators bring their guests to Mākaha Beach to snorkel, sometimes even during high surf conditions. Surfers communicated several examples of "close calls" with commercial tour operators' guests and ocean safety. Other issues included:

- Location of moorings for operators
- Anchoring of operators
- Safety for surfers
- Safety of commercial tour operator guests.

Some years ago, a list of moorings was approved by stakeholders and installed. Without any moorings, boats must anchor, and this damages reef areas. There were six moorings originally installed at Mākaha, three on the top of the caverns and three along the ledge. The moorings on the top of the caverns were installed with NO buoys but instead were set up with large stainless steel rings that were about four inches across. The concern from surfers was that buoys at that site (on the top of the reef crest) would become entangled in the leashes of the surfers during the large winter swells. The agreement was that the dive boat operators could dive



down and slip the lines through the rings to eliminate the need of anchoring but still have a place to moor.

Surfers and ocean safety staff at Mākaha noted that local knowledge is very important. Communication between operators, lifeguards, and surfers is essential. They also expressed that respect needs to be given to surfers and long-time residents who know waters of Mākaha.

There are many new commercial operators visiting Mākaha since this informal agreement was forged. Many of these operators are unaware of the agreements previously established. The DLNR will continue to work with stakeholders on this issue. Long-time beach goers, surfers, and kama'aina of Mākaha Beach feel new tours should be informed and required to comply with the agreement as a condition of their commercial permit.

6.4 Commercial Touring Issues

There are an estimated 15 commercial operators that berth at Wai'anae Small Boat Harbor and Ko 'Olina Marina. In meetings, tour operators stressed that they bring lots of benefits to West O'ahu. Many of the businesses employ locals. Businesses that hire residents and do business with other local companies improve the region's economy. Many tour operations regularly pick up ocean trash. The operators also educate newcomers by sharing West O'ahu's ocean resources and impressing upon them the importance of these natural resources.

Several tour businesses expressed that they are not taking any resources so there is no effect. They shared that residents swam with dolphins and turtles years ago even before there were any tours. Others expressed that fishermen have honest concerns: "We are all professionals and have to look after the Coast together."



FIGURE 20. Surfing at Mākaha Beach.

Photo source: Josh Wills, Wai'anae High School Website.



Operators had differing opinions on existing limits of commercial permits. On one hand, the limit helps manage the carrying capacity of resources and sustainability. However, others felt that in Hawai'i the free market would naturally work it out, “the law should not limit how you can grow your business.” The tour operators had consensus on opposing an ORMA for West O'ahu Ocean waters. They also agreed that a baseline study is needed to comprehensively look at all impacts, pollution, fishing, tours, etc.

FIGURE 21. Operators at Mākaha Beach.



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